

California Regional Water Quality Control Board  
Santa Ana Region  
STAFF REPORT  
December 3, 2002

ITEM: 14

**SUBJECT:** Administrative Civil Liability Complaint No. R8-2002-0081,  
Golden Cheese Company of California, Corona, Riverside County

**BACKGROUND**

On October 4, 2002, the Executive Officer issued Administrative Civil Liability Complaint (ACL) No. R8-2002-0081 (copy attached) to Golden Cheese Company of California (GCCC) for alleged violations the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) and Provisions A.1, A. 2, A. 6 a. v., and B.3 of the General Industrial Activity Storm Water Permit, NPDES No. CAS000001 (General Permit). The facility is covered under the General Permit and its WDID No. is 833S005553. In the ACL, the Executive Officer proposed an assessment of \$40,000 for the alleged violations.

**INTRODUCTION**

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is whether to affirm, reject, or modify the proposed administrative civil liability assessment against GCCC.

ACL No. R8-2002-0081 was issued by the Executive Officer to GCCC for discharging unauthorized non-storm water containing pollutants, and discharging sewage, to a tributary of Temescal Creek.

**DISCUSSION**

The Basin Plan prohibits the discharge of untreated sewage. This prohibition states, "The discharge of untreated sewage to any surface water stream, natural or man-made, or to any drainage system intended to convey stormwater runoff to surface water streams, is prohibited."

Provisions A.1, A.2, A.6.a.v, and B.3 of the General Permit require the discharger to eliminate unauthorized non-storm water discharges and to develop and implement an effective Storm Water Pollution Prevention Plan (SWPPP) and Monitoring and Reporting Requirements.

The ACL was issued for four days (three incidents) of discharges from GCCC, located at located at 1138 Rincon Street in Corona. On June 29, 2001, a foul-smelling, milky-colored liquid was discharged to Rincon Street from a manhole located on an embankment at the front of GCCC's property. The second incident occurred on August 22 and 23, 2001. Once again, GCCC discharged a foul-smelling, milky-colored non-storm water from its non-storm water collection vault

due to a pump failure. The third incident occurred on November 13, 2001, when GCCC pumped storm water commingled with other wastes from its facility to Rincon Street.

Board staff investigated all three incidents and requested information from GCCC and owners and operators of the sewer lines. The first incident, on June 29, 2001, was a discharge of waste from a manhole leading to the Santa Ana Watershed Project Authority's (SAWPA) Santa Ana Regional Interceptor (SARI) line. The SARI line is used for transporting saline and other wastes from the upper Santa Ana watershed to Orange County for treatment and disposal to the ocean. In its May 3, 2002 letter regarding this incident, SAWPA indicated that at the time of the incident, GCCC's flow probably exceeded the maximum permitted flow. GCCC indicated that scale buildup in the lateral line and obstructions in the manhole itself caused the spill. Additional information provided by SAWPA, Western Municipal Water District (WMWD, operator of the SARI line), and the City of Corona indicates that the spill resulted from a lack of maintenance of the lateral line, excessive flow from GCCC, and a ¾" PVC pipe that was installed in the manhole to stabilize the 3" discharge pipe from the neighboring Cogen Plant. The spilled material flowed approximately 0.6 miles along Rincon Street and then to a channel tributary to Temescal Creek. Based on conservative estimates, the flow was approximately 7,800 gallons.

Normally, GCCC collects non-storm water discharges from the facility in an on-site underground vault (collection vault) from which they are pumped into the facility's wastewater treatment system and the treated water is then discharged into the SARI line. Board staff inspections indicated that the non-storm water in the collection vault came from various sources within the facility. The August 22 and 23, 2001 non-storm water discharges were the direct result of a pump failure in the collection vault. GCCC determined that the pump was not operating properly. With the pump malfunctioning, the wastewater collected in the vault overflowed and entered a second vault on the north perimeter of the property, next to Rincon Street. Board staff inspected this vault and noticed that it contained a milky, rancid-smelling liquid. This liquid was overflowing from the second vault onto Rincon Street. The liquid in the second vault measured between 3 and 4 pH units. The second vault was the source of the liquid waste discharged onto Rincon Street as observed on August 22 and 23, 2001.

The August 23, 2001, sample results indicate that the wastewater contained: 4,080 µmhos/cm specific conductance, 5.5 pH units, 3,400 mg/l total dissolved solids, 169 mg/l calcium, trace amounts of boron, 33.4 mg/l iron, 25.3 mg/l magnesium, 149 mg/l potassium, 545 mg/l sodium, 525 mg/l total hardness, 935 mg/l total alkalinity as CaCO<sub>3</sub>, 433 mg/l chloride, 161mg/l sulfate, 126 mg/l ammonia-N, 79.8 mg/l total phosphorus and other constituents.

On November 13, 2001, representatives from the WMWD and the City of Corona observed a liquid discharge from GCCC to Rincon Street. Information conveyed to Board staff indicates that GCCC pumped storm water commingled with other wastes from the site to Rincon Street.

The discharge of untreated sewage to any surface water stream, natural or man-made, or to any drainage system intended to convey storm water runoff to surface water streams, is prohibited. GCCC violated this Basin Plan prohibition by discharging untreated sewage to Rincon Street. Also, by failing to develop and implement an appropriate SWPPP, and by discharging unauthorized non-storm water containing pollutants, the discharger violated Provisions A.1, A.2, and A.6. a. v and B.3 of the General Permit.

California Water Code Section 13385 (c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. The maximum liability for four days of violations is \$40,000.00.

The Executive Officer issued ACL No. R8-2002-0081 because of the above stated violations of the Basin Plan and the General Permit.

The Water Code specifies factors the Board shall consider in establishing the amount of civil liability. These factors are discussed below.

1. Nature, Circumstances, Extent and Gravity of the Violations

The discharger was fully aware of the requirements of the General Permit to develop and implement a SWPPP to control the discharge of pollutants in storm water runoff. They were also aware of the prohibition on discharge of untreated sewage, unauthorized non-storm, and storm water containing pollutants from the subject site.

2. Ability to Pay the Proposed Assessment

The discharger has not provided any information to indicate that it would have difficulty paying the proposed assessment.

3. Prior History of Violations

On November 2, 2000, a Board staff observed a discharge from the GCCC property and attempted to inspect the site, but no GCCC staff was available. Barry Brennan contacted Board staff the next day and stated that the discharge was due to a faulty valve and the valve was repaired.

On November 7, 2000, Board staff inspected GCCC and a Notice of Violation was issued on December 21, 2000. The Notice of Violation noted a general lack of good housekeeping practices and a lack of adequate best management practices (BMPs).

4. Degree of Culpability

The storm water regulations are applicable to all industrial activities. All dischargers, including GCCC, are responsible for compliance with the Clean

Water Act. GCCC, is fully culpable for violating the Basin Plan prohibitions and terms and conditions of the General Permit, which implements the Clean Water Act. GCCC had a history of violations.

5. Economic Benefit or Savings, if any, Resulting from the Violations

By failing to effectively develop and implement BMPs, GCCC gained an economic advantage over their competitors. It also appears that the employees were not properly trained to handle wastes or to control and cleanup spills and leaks. GCCC has a system to collect, treat and dispose of non-storm water generated at the facility. However, GCCC failed to properly maintain and operate the non-storm water collection system. Economic savings from these violations are estimated as follows:

Cost to develop and implement a proper SWPPP on a year- round basis	= \$4,500
Cost to train employees	= \$1,000
Cost to maintain and operate the non-storm water collection, treatment and disposal system	= \$2,200
Total cost savings	<hr/> = \$ 7,700

**STATEWIDE ENFORCEMENT POLICY**

On April 18, 1996, the State Water Resources Control Board adopted a State Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are consistent, predictable, and fair. The above-described administrative civil liability complaint is in accordance with the Statewide Enforcement Policy.

**RECOMMENDATION**

After consideration of the above factors, staff recommends that the Board affirm the assessment of \$40,000 specified in the Administrative Civil Liability Complaint issued by the Executive Officer on October 4, 2002.

California Regional Water Quality Control Board  
Santa Ana Region

IN THE MATTER OF:

Golden Cheese Company of California	)	Complaint No. R8-2002-0081
1138 West Rincon Street	)	for
Corona, CA 92880	)	Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Golden Cheese Company of California (GCCC) has violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose administrative civil liability pursuant to California Water Code Section 13385.
2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless GCCC waives its right to a hearing. Waiver procedures are specified on Page 7 of this complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on December 3, 2002, in the City Council Chambers, City of Loma Linda, California. The meeting begins at 9:00 a.m. GCCC or its representative will have the opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of civil liability by the Board. An agenda announcement for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. If a hearing is held on this matter, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. This Complaint addresses three different incidents where raw sewage and/or other wastes were discharged to Rincon Street in Corona. These discharges occurred on June 29, 2001, August 22/23, 2001, and November 13, 2001.

On June 29, 2001, GCCC discharged raw sewage mixed with process wastes to Rincon Street thereby violating the provision of the Water Quality Control Plan for the Santa Ana River Basin prohibiting the discharge of untreated sewage. This prohibition states:

“The discharge of untreated sewage to any surface water stream, natural or man-made, or to any drainage system intended to convey stormwater runoff to surface water streams, is prohibited.”

5. On August 22/23, 2001, and on November 13, 2001, GCCC is alleged to have violated Provisions A.1, A.2, A.6.a.v, and B.3 of the General Industrial Activity Storm Water Permit, NPDES No. CAS000001 (General Permit). The WDID number for the facility is 833S005553. GCCC failed to properly develop and implement an effective Storm Water Pollution Prevention Plan (SWPPP) and Monitoring and Reporting Requirements and discharged non-storm water and storm water containing pollutants to waters of the United States from the facility. GCCC did not implement appropriate best management practices (BMPs) at the facility.

A) The General Permit Provision A.1 provides:

“Except as allowed in Special Conditions (D.1.) of this General Permit, materials other than storm water (non-storm water) that discharge either directly or indirectly into waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.”

B) The General Permit Provision A (6)(a)(v) provides:

“Facility operators shall investigate the facility to identify all non-storm water discharges and their sources. As part of this investigation, all drains (inlets and outlets) shall be evaluated to identify whether they connect to the storm drain system.

All non-storm water discharges shall be described. This shall include the source, quantity, frequency, and characteristics of the non-storm water discharges and associated drainage area.

Non-storm water discharges that contain significant quantities of pollutants or that do not meet the conditions provided in Special Conditions D are prohibited by this General Permit (Examples of prohibited non-storm water discharges are contact and non-contact cooling water, boiler blowdown, rinse water, wash water, etc.)”

C) The General Permit Provision B.3 provides:

“Facility operators covered by this General Permit must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges through implementation of BAT for toxic and non-conventional pollutants and BCT for conventional pollutants. Development and implementation of

a SWPPP that complies with the requirements in Section A of the General Permit and that includes BMPs that achieve BAT/BCT constitutes compliance with this requirement.”

6. This Complaint is based on the following facts:

- A) On June 29, 2001, Regional Board staff observed a foul-smelling, milky-colored liquid flowing along Rincon Street. Staff traced this liquid back to the GCCC facility located at 1138 Rincon Street.
- i) The City of Corona NPDES inspector was informed of the incident by Regional Board staff. The City of Corona inspector arrived shortly thereafter and discussed this discharge with GCCC. Facility personnel were unaware that a spill had occurred.
- ii) Inspection of the facility by Board staff revealed that the spill was coming from a manhole located on an embankment at the front of GCCC's property on Rincon Street.
- iii) The manhole is the connection point where GCCC and the nearby Corona Energy Partners (Cogen Plant) discharge their sewage and process wastewater into the Santa Ana Regional Interceptor (SARI) line under permit from the Santa Ana Watershed Project Authority (SAWPA). There is a lateral line leading from the manhole to the SARI line. It is unknown how long the overflow had occurred prior to Regional Board staff noticing the spill. The flow went north across Rincon Street and flowed west parallel to Rincon Street and under Auburndale Street. This storm drainage system along Rincon Street is considered to be a tributary to Temescal Creek, which is approximately 100 yards from the intersection of Rincon Street and Auburndale Street. At the time of the spill investigation, it could not be determined if the discharge actually entered Temescal Creek.
- iv) In a July 3, 2001 letter, GCCC stated that the spill occurred from the manhole located on the south side of Rincon Street due to scale build up in the lateral line leading from GCCC to the SARI line and/or because GCCC's flow exceeded the design capacity of the lateral line. Additional information provided by SAWPA, Western Municipal Water District (WMWD), and the City of Corona indicates that the spill resulted from a lack of maintenance of the lateral line, excessive flow from GCCC, and a ¾" PVC pipe that was installed in the manhole to stabilize the 3" discharge pipe from the Cogen Plant.
- v) Sewage flowed approximately 0.6 miles to the intersection of Rincon and Auburndale Streets and then to a channel tributary to Temescal Creek. Approximately 7,800 gallons were discharged to Rincon Street (amount based on a conservative estimate based on observation of an

approximate wet area of 0.6 miles times 24 inches wide by 2 inches deep).

- vi) The wastes discharged originated from GCCC.
- B) On August 22, 2001, a hot summer day, Regional Board staff observed a foul-smelling, milky-colored liquid flowing along Rincon Street.
- i) Staff tracked this discharge to GCCC's facility and determined that this non-storm water discharge originated from the storm water discharge vault located on an embankment in front of GCCC's facility on Rincon Street. The pH measurement of this discharge was 5 pH units. Board staff left a voice mail message for GCCC's Plant Manager, notifying him of the observed discharge and its origin and directing that GCCC take measures to prevent further discharges.
  - ii) The following day, Regional Board staff and a City of Corona inspector observed that the discharge was continuing.
  - iii) On August 23, 2001, Regional Board staff and the City of Corona inspector met GCCC's Plant Manager and inspected the facility. The inspection revealed several sources of non-storm water discharges, poor housekeeping practices, chemical spills, and cheese wastes at a number of locations around the exterior grounds of the facility.
  - iv) On the west side of the facility a non-storm water flow was measured at 9 pH units. On the east side of the facility a non-storm water flow was measured at 5 and 5.5 pH units. Liquid near a storm drain on the northeast area of the facility was measured at 5 pH units. At the parking lot at the north end of the facility, there was a rusty colored puddle near a storm drain with a pH at 9 pH units.
  - v) Normally, non-storm water discharges from the facility are collected in an on-site underground vault (collection vault) from which they are pumped into the facility's wastewater treatment system and discharged into the SARI line.
  - vi) The August 22 and 23, 2001 non-storm water discharges were the direct result of a pump failure in the collection vault. GCCC determined that the pump was not operating properly. With the pump malfunctioning, the wastewater collected in the vault overflowed and entered a second vault on the north perimeter of the property, next to Rincon Street.
  - vii) The second vault, located next to Rincon Street, was inspected by Regional Board staff, and it contained a milky, rancid-smelling liquid. This liquid was overflowing from the second vault into Rincon Street.



The liquid in the second vault measured between 3 and 4 pH units. The second vault was the source of the liquid waste discharged onto Rincon Street as observed on August 22 and 23, 2001.

- viii) On August 22 and 23, 2001, the liquid waste flowed from the second vault, located adjacent to Rincon Street, for approximately 0.6 miles to the intersection of Rincon and Auburndale, then into a channel tributary to Temescal Creek. None of the liquid waste was recovered; at a minimum, 7,800 gallons on each of the noted days were discharged to a tributary of Temescal Creek (based on an estimate of 0.6 miles times 24 inches wide by 2 inches deep.)
- C) On November 13, 2001, representatives from the WMWD and the City of Corona observed a discharge of liquid from GCCC.
- i) Information conveyed to Regional Board staff indicates that GCCC pumped storm water commingled with other wastes from the site, to Rincon Street.
- ii) Samples obtained by the other agencies from the November 13, 2001 release were analyzed and the results indicated the following levels of pollutants:

<b><i>CONTAMINANT</i></b>	<b><i>LEVEL FOUND IN SAMPLE</i></b>
Specific Conductance	970 unhom/cm3
Total Suspended Solids	53 mg/l
Biological Oxygen Demand	44 mg/l
Copper	260 ug/l
Zinc	480 ug/l

- iii) These results indicate that the discharge contained pollutants.
7. As indicated above, discharges from GCCC that flow along Rincon Street are tributary to Temescal Creek (Reach 1A), and Temescal Creek is tributary to the Santa Ana River (Reach 3). The beneficial uses of the Santa Ana River, Reach 3, and Temescal Creek, Reach 1A, include: agricultural supply; industrial service supply (Temescal Creek only); groundwater recharge; water contact recreation; non-contact water recreation; warm freshwater habitat; wildlife habitat; rare, threatened and endangered species habitat; and spawning (Temescal Creek only).
8. Pursuant to Section 13385(c), the Board is authorized to administratively assess civil liability in an amount not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

9. For the June 29, 2001 discharge, in accordance with Water Code Section 13385(c), the total maximum liability for the violation cited is \$10,000 for one day of discharge.
10. For the August 22 and 23, 2001 discharge, in accordance with Water Code Section 13385(c), the total maximum liability for the violation cited above is \$20,000 for two days of discharge.
11. For the November 13, 2001 discharge, in accordance with Water Code Section 13385(c), the total maximum liability for the violation cited is \$10,000 for one day of discharge.

Regional Board staff spent approximately 100 hours investigating the June 29, 2001 incident, 40 hours for the August 22/23, 2001 incident and 5 hours for the November 13, 2001 incident (@\$70.00 per hour, the total cost for staff time is \$10,150.00). The cost savings from exceeding the flow limitations could not be estimated, as the flow meter was not fully operational at the time of the incident. GCCC saved approximately \$500.00 by not properly maintaining the pumps for the collection sump and \$2,500.00 by not implementing other BMPs at the site.

12. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstances, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. The factors are evaluated in the table on the following page.

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Factor	Comment
<b>A. Nature, Circumstances, Extent and Gravity of Violation</b>	<p><b>The June 29, 2001</b> discharge was a foul-smelling, milky-colored liquid. <b>August 22/23, 2001: Pollutants:</b> sample results indicate the wastewater contained: 4,080 umhos/cm<sup>3</sup> specific conductance, 5.5 pH units, 3,400 mg/l total dissolved solids, 169 mg/l Calcium, trace amounts of Boron, 33.4 mg/l Iron, 25.3 mg/l Magnesium, 149 mg/l Potassium, 545 mg/l Sodium, 525 mg/l total hardness, 935 mg/l total alkalinity as CaCO<sub>3</sub>, 433 mg/l Chloride, 161mg/l Sulfate, 126 mg/l ammonia-N, 79.8 mg/l total Phosphorus and 0.07 mg/l Fluoride. <b>Volume:</b> Approximately 15,600 gallons total, for two days spillage</p> <p><b>November 13, 2001: Pollutants:</b> sample results indicated 970 umhom/cm<sup>3</sup> Specific Conductance, 53 mg/l TSS, 44 mg/l BOD, 260 ug/l Copper, and 480 ug/l Zinc . <b>Volume:</b> undetermined.</p> <p><b>Sensitivity of Nearby Receiving Waters:</b> Santa Ana River, Reach 3, is listed on the 303(d) list as an impaired waterbody.</p> <p><b>Beneficial Uses:</b> As described above, the Temescal Creek and Santa Ana River have potential or existing beneficial uses which might have been adversely impacted by the discharge if storm water/urban runoff further carried the pollutants into the waterways.</p>
<b>B. Culpability</b>	The discharger violated the terms of the General Permit by failing to implement appropriate BMPs, by not maintaining the pumps and level controls in the vault and by discharging non-storm water containing pollutants.
<b>C. Economic Benefit or Savings</b>	<p>GCCC saved approximately \$500.00 by not properly maintaining the pumps for the collection sump.</p> <p>GCCC saved over \$2,500.00 by not implementing other BMPs at the site. The cost it would have incurred to treat the wastewater in its own wastewater treatment unit is unknown.</p>
<b>D. Prior History of Violations</b>	<p>The site has had non-storm water discharges observed prior to this incident. In November 2000, a discharge was observed coming from the Rincon Street vault and flowing down Rincon Street. Staff were told that it was due to a faulty valve.</p> <p>In 1998, GCCC was cited by USEPA for high pH and BOD discharges to the SARI line.</p>
<b>E. Staff Costs</b>	Regional Board staff spent at least a total of 145 hours investigating these incidents (@\$70.00 per hour, the total cost for staff time is \$10,150.00).
<b>F. Ability to pay</b>	The discharger has not provided any information to indicate that it is unable to pay the proposed amount.

13. The total maximum liability for the three discharges is \$40,000. After consideration of the above factors, the Executive Officer proposes civil liability be imposed on GCCC in the amount of \$40,000. An invoice for the amount of \$40,000 is enclosed.

14. GCCC may waive its right to a hearing in this matter. If GCCC chooses to do so, please sign the attached waiver, which is on Page 9 of this Complaint, and return it, together with the bottom portion of the invoice and a check for \$40,000, to the State Water Resources Control Board in the preprinted enclosed envelope.

If you have any questions concerning this complaint, contact Michael Adackapara at (909) 782-3238, or Ann Iaali at (909) 320-2182. All legal questions should be addressed to Jorge Leon, the Board's Staff Counsel, at (916) 341-5180.

October 4, 2002  
Date

  
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Gerard J. Thibeault  
Executive Officer

California Regional Water Quality Control Board  
Santa Ana Region

IN THE MATTER OF:

Golden Cheese Company of California )	Complaint No. R8-2002-0081
1138 West Rincon Street )	for
Corona, California 92880 )	Administrative Civil Liability

Waiver of Hearing

I agree to waive Golden Cheese Company of California's (GCCC) right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2002-0081. I have enclosed the bottom portion of the invoice and a check payable to the State Water Resources Control Board for the amount of the proposed liability in Paragraph 13 of Complaint No. R8-2002-0081. I understand that I am giving up GCCC's right to be heard and to argue against the allegations made in the Complaint No. R8-2002-0081, and against the imposition of, and amount of, civil liability.

\_\_\_\_\_  
Date

\_\_\_\_\_  
for Golden Cheese Company of California

Please use the enclosed, preprinted envelope for returning this waiver form, bottom portion of the invoice and the payment.